

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:23-cv-315-M-KS

ANTONIO DEVON MITCHELL,

Plaintiff,

v.

MARTIN O'MALLEY, COMMISSIONER
OF SOCIAL SECURITY
ADMINISTRATION,

Defendant.

ORDER

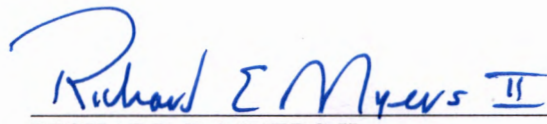
This matter comes before the court on Magistrate Judge Kimberly Swank's memorandum and recommendation ("M&R") [DE 15]. Judge Swank recommends that the Commissioner's decision be reversed and the matter be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. To date, no objections have been filed.

A magistrate judge's recommendation carries no presumptive weight. The court "may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for "clear error" and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated

therein, the Commissioner's decision is REVERSED. This matter shall be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

SO ORDERED this 6th day of June, 2024.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE